

8-1-1959

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Recommended Citation

Boles, Donald E. (1959) "Look at County Government," *Iowa Farm Science*: Vol. 14 : No. 2 , Article 2.
Available at: <http://lib.dr.iastate.edu/farmscience/vol14/iss2/2>

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A Look at County Government

General criticism of the structure and form of local county government has been increasing. But studies show that most citizens haven't much information about or much interest in their own county government. So there may be some merit in pausing to take a closer look at this unit.

by Donald E. Boles

COUNTY GOVERNMENT in Iowa is big business! In 1956, for example, about 36.7 million dollars were spent for county government purposes—excluding spending for roads and education. Actually, it's these last two fields which form the largest expenditure items in a county's budget.

Preliminary studies indicate that almost 75 cents out of every tax dollar collected by the state government or one of its subdivisions is returned to and spent by the counties. This sizable amount

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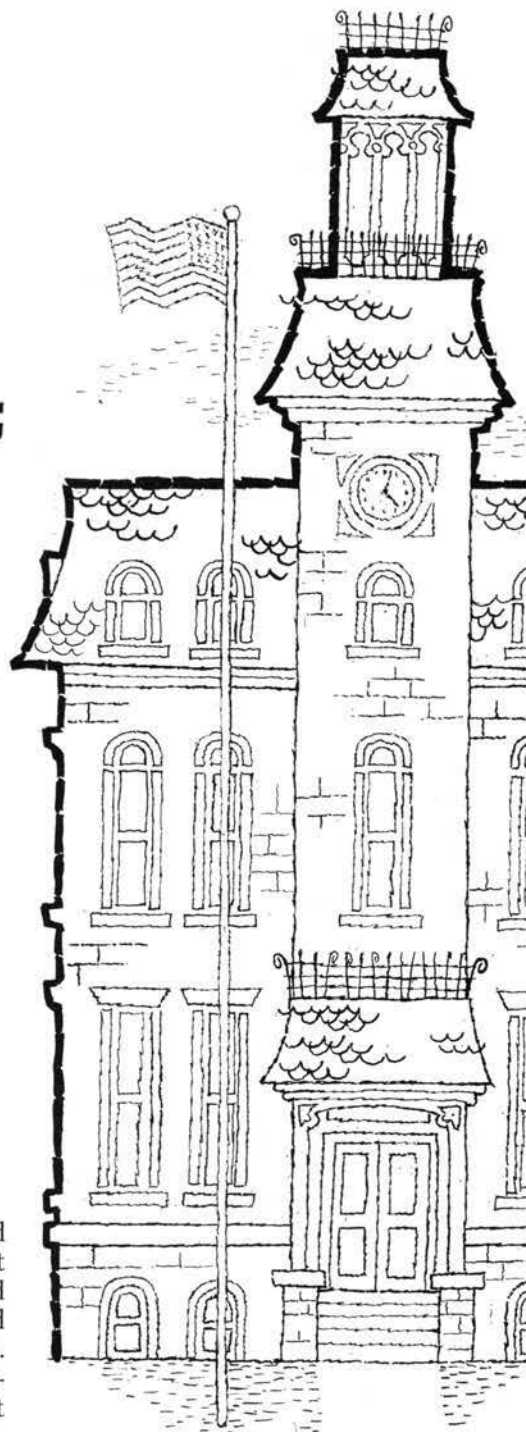
of money is thus administered and expended by a governmental unit which has been rather widely and openly criticized as a backward and inefficient governmental form. Indeed, the county is often referred to as the "Dark Continent of American Politics" among students of government.

Is this criticism justified? Generally, it isn't directed at a specific county as such or at individual county officers or officials. Rather, it's directed at the somewhat haphazard structure and development of this unit of government and at the relatively high costs associated with it. Also, studies have shown that most citizens haven't much information about and aren't very interested in their county government.

So there may be some merit in pausing in mid-century to take a

closer look at this governmental unit. Perhaps we'll prefer to leave everything "as is"—perhaps not. But let's take a look at the "as is" in any case.

A major cause for public disinterest in county government can be traced to the scarcity of reliable information about the operation of this unit of government. Citizens and legislators alike find it difficult to develop an avid in-



terest in the county and its cost of operation when national and international problems dominate the headlines. The activities of the county government, if appearing at all in the newspapers, are tucked away in the form of legal notices in an obscure portion of the newspaper.

Even those who are seriously interested in seeking more information about the county find major obstacles. The formal reports that counties make annually to their citizens or to state governmental agencies most often are vague, ambiguous and lack uniformity. This problem is particularly acute in Iowa.

State laws dealing with the reporting of county governmental activities permit large areas where no specific information need be placed in written form at the county level. Moreover, with the exception of the state auditor, treasurer and comptroller, there are few state offices where the activities of the various county offices are reported with any degree of thoroughness, even on an annual basis.

Originally . . .

Most of the terms and the very form of American county government were common to 11th-century England. The office of sheriff, for example, developed in England by 900 A.D. when it was called the *shire reeve*. The coroner, justice of the peace and grand jury were recognized agencies of county government in England by 1066 A.D. The world of today has little in common with the age in which the county originated.

Other differences stand out, too. The county officers in early England were agents of a centralized authority—the King. This fact was ignored when the county form was transplanted from England to America during the colonial period. While this difference had no great meaning before the Revolutionary War, it became of major importance following the Declaration of Independence and the end of the war. The clear lines of responsibility which governed county officers in England weren't present in the United

States since we had no powerful executive patterned after the early English kings.

The forms of county government developed differently in the various regions of the United States. In the southern states, where English institutions were most faithfully copied, the county developed without townships as subdivisions. In New England, on the other hand, there was almost no emphasis on the county as a unit of government. Counties did exist in New England, however, as indicated by the fact that the 1959 Connecticut legislature formally abolished all counties in that state.

States in between, such as New York, evolved a compromise between the southern plan and the New England approach—having counties but dividing them into townships. Under this plan, the township supervisors normally made up the county board of supervisors.

As the nation expanded, new states tended to adopt one of these plans of local government. The form usually adopted was similar to the form used in the state from which came the first major group of permanent settlers. Iowa was no exception.

Iowa Development . . .

The first two of the present Iowa counties, Dubuque and Des Moines (Des Moines), were cre-



ated in 1834 when Iowa was part of the Michigan Territory. These counties were divided into townships, and the township-supervisor plan of government was established. The three county supervisors and 15 other county officers for each were selected by the governor of Michigan to govern the Iowa counties.

Two years later, Iowa became part of the Wisconsin Territory, and the structure of county government was sharply revised. The county commissioner system—which originated in Pennsylvania nearly a century before—was adopted. This resulted in the discontinuation or merger of many of the county offices and disregarded the township as a basis of representation on the county governing body. During the period of about 2 years in which Iowa was a part of the Wisconsin Territory, 19 new counties were created.

The Territory of Iowa was created in 1838. But the county commissioner system was retained for the 8 years Iowa was a territory and for 5 years after Iowa became a state. Of the counties now existing, 23 were created during the period when Iowa was a territory. The remaining counties were established during the period from 1846, when Iowa became a state, to 1857, when the present constitution was adopted. Iowa counties normally were laid out in advance of the arrival of actual settlers, but settlers predated county establishment in a few instances.

The Iowa legislature drastically changed county governmental organization in 1851 by abolishing the county commissioner system and replacing it with a one-man county judge. This is a form common to many of the southern states, though the title is misleading to many residents of the North. The county judge, so far as county government was concerned, was the chief executive, administrative, legislative and judicial authority all in one.

The county judge system was controversial from the start in Iowa. Finally, after many studies and much debate, it was abolished in 1860 in favor of the township-supervisor system similar to that first used when Iowa was a part of the Michigan Territory.

But this system, too, wasn't to remain unchanged. In 1870 the legislature abolished the township-supervisor plan and replaced it with the county supervisor system which remains substantially the same today. The number of supervisors was reduced—with

counties given the option of having either a 3-, 5- or 7-member board, with members chosen at large or from districts. The method of electing supervisors is determined by a referendum-type vote in the individual county. Under this arrangement, county supervisors, in their relationship to the township, are supervisory rather than representative.

What Limitations?

Counties frequently were created by executive proclamation in the territories of Michigan and Wisconsin. In Iowa, however, no counties were ever established in this fashion. All counties were created by legislative enactment. Iowa constitutions, from the first, placed few restrictions on the legislature concerning the establishment of counties. In the Constitution of 1846, only Article XII, Section 2, dealt with counties. It provided, "No new county shall be laid off hereafter, nor old county reduced to less contents than . . . 432 square miles."

This provision also was included in the Iowa Constitution of 1857, with the additional provision in Article XI, Section 2, that counties, with the exception of " . . . the County of Worth, and the counties west of it along the northern boundary of this state may be organized without additional territory."

Section 3 of the same article in the present constitution also provides that, "No county, or other political or municipal corporation shall be allowed to become indebted in any manner, or for any purpose, to an amount in the aggregate exceeding five per centum of the value of the taxable property within such county . . ."

Special legislation is prohibited by Article III, Section 30, of the Iowa Constitution. This section provides that, "The General Assembly shall not pass local or special laws . . . for the assessment and collection of taxes for the state, county or road purposes . . . For locating or changing county seats . . . and no law changing the boundary lines of any county shall have effect until . . . being submitted to the people of the

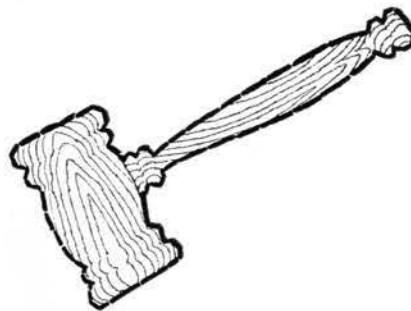
counties affected by the change, at a general election, it shall be approved by a majority of the votes in each county . . ."

The only other section of the Iowa Constitution basic to an understanding of the forms and functions of county government was added by an amendment adopted in 1884. Article V, Section 13, states, "The qualified electors of each county shall at the general election in the year 1886, and every two years thereafter, elect a County Attorney, who shall be a resident of the county for which he is elected, and shall hold office for two years, and until his successor shall have been elected. . ."

The county attorney, thus, is the *only* county officer provided for in the Iowa Constitution. This gives the legislature considerable leeway in outlining the organization and structure of county government. The constitutional arrangement provides the necessary legal flexibility to meet the problems of different ages without requiring the involved and time-consuming procedure of amending the constitution.

Courts and Counties . . .

What is the legal position of the county? Throughout the United States, constitutions and statutes usually set forth two major functions of the county. The



county is considered an agent of state governmental administration in all states. In some states, the county is given the additional function of acting as an agency of local self-government. The county in such instances normally is granted ordinance making power and control over the administration of justice locally in addition to being responsible for local administration of state laws.

In Iowa the statutes clearly indicate that counties function almost exclusively as agencies of the state government and are without any real local self-governing function. State law spells out in minute detail almost all functions of county government. Little discretion is granted to the county officers over local matters, and the legislatures, over the years, have gradually taken more and more discretion from the county.

Courts in the United States generally view the county as being of a lower legal order than cities and have labeled counties as quasi-corporations. The Iowa Supreme Court accepted this view in 1868 in the case of *Soper vs. Henry County*. The Court explained, ". . . although clothed with corporate power, counties stand low down in the scale of corporate existence. Counties must be reckoned as quasi-corporations as distinct from municipal corporations."

Briefly, this legal theory suggests that, while counties may acquire and hold property, enter into contracts and enjoy certain other privileges of corporations, they are not true municipal corporations inasmuch as counties have no charters. As a result, the Iowa courts have concluded that counties are quasi-public corporations and are held to much more limited liability than are municipal corporations.

Present Structure . . .

Existing legislation governing the county provides that all counties are to elect four basically independent policy-determining agencies. These are: a board of supervisors, a board of education, an agricultural extension council and a board of hospital trustees (if a county hospital is maintained). Moreover, each county elects every 2 years at present, seven officers, with duties almost entirely administrative in nature. These are: the auditor, treasurer, recorder, attorney, sheriff, coroner and clerk of the district court.

Other county officers are appointed either by the county board of supervisors or by some combination of county officials acting in an ex-officio capacity.

The county board of education appoints the county superintendent of schools to a 3-year term. At present this is the only county officer permitted to serve more than one county—a provision enacted by the 1957 General Assembly.

Each county is required to establish a board of review for purposes of adjusting assessments and valuations of personal and business properties. The board is named by a conference composed of the board of supervisors, the mayors of all incorporated cities in the county and members of the board of education. This is the same county conference which appoints the county assessor.

The county hospital trustees appoint the hospital superintendent, while the county extension director is appointed by the agricultural extension council.

The county board of supervisors appoints a long list of officials. These include: the county engineer, the board of social welfare (which, in turn, appoints the county director of social welfare), county home steward, overseer of the poor, soldiers' relief commission, county surveyor, library trustees, county zoning commission, board of zoning adjustment, zoning officer and the county conservation board.

Counties also have the option of creating a county drainage board (whose membership is ex-officio the county supervisors), a county board of health and a county fair association. The state district court judge appoints a county juvenile probation officer and the members of the county insanity commission, on which the clerk of the district court is an ex-officio member.

Thus, our present county governments consist of a considerable number of elective and relatively independent county officers and a variety of semi-autonomous boards, commissions and councils.

Theory vs. Practice . . .

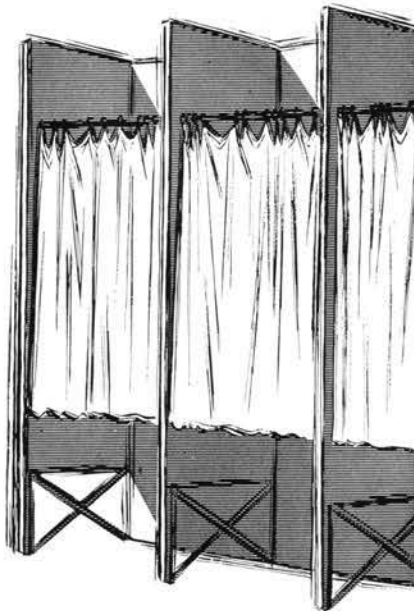
In theory the county board of supervisors is the chief formulator of county policy. But, in practice, this doesn't work out for a number of reasons.

First, most of the other elective

county officers have a wide degree of independence in making up the budgets for their offices and in determining their own policies within the framework and discretion of state laws. Second, the board of supervisors has no executive official with the responsibility and power to give the board the executive direction needed by any agency. Except for townships, county government of the Iowa variety is the only basic government unit lacking the executive-legislative-judicial division common to the traditional American separation-of-powers principle.

Some Changes . . .

Some important changes in Iowa county government were brought about by the 1959 General Assembly. The ancient elective office of coroner was abolished and replaced by an appointive county medical examiner who is required to be a medical doctor or osteopathic surgeon—a requirement which didn't apply to the coroner.



The legislature also passed a law which permits the voters of a county to initiate a referendum vote which would permit consolidating any or all of the elective county offices except the board of supervisors and the county attorney. This would permit the establishment of a more efficient department-type of county office

organization in any county desiring it.

Another statute enacted by the 1959 legislature extends the terms of all elective county officers, except the supervisors and county attorney, from 2 to 4 years. Offices affected include those of auditor, treasurer, recorder, sheriff and clerk of the district court.

Two other proposals designed to improve existing weaknesses in county governments failed to pass. Though ultimately merged into the same bill, the two proposals covered quite different areas.

One would have permitted counties to adopt a county-manager form of government. Where desired by the voters, this form could cure many of the ills resulting from the absence of executive leadership on the county level without interfering with the basic policy-making powers of the county board of supervisors.

The other section of the bill would have permitted two or more counties to consolidate geographically. This, if desired by the citizens of two or more counties, would have permitted a reduction in the number of Iowa counties and have increased the populations of the remaining counties. Since there's a very clear connection between the increase in a county's population and a decrease in the per-capita cost to operate county government, some observers for years have been urging the consolidation of counties.

The cost of operation certainly isn't the only factor to be considered. But particularly when analyzing the costs of county government in Iowa, one is struck by the possibilities for improvement in costs and efficiency of operations. We'll discuss these costs of county government in another article in this series.

Perhaps you are and will continue to be satisfied with the present structure, cost and operation of your county; there are other factors to consider also. But it is your county government—paid for by you and administered by officers elected by you or appointed by those whom you elect—and may merit your attention to learn more about it.